

I hereby certify that this correspondence is being filed via
EFS-Web with the United States Patent and Trademark Office
on March 3, 2009

PATENT
Attorney Docket No.: 019959-006511US
Client Reference No.: FDRY-0004.1-CIP-US

TOWNSEND and TOWNSEND and CREW LLP

By: /Mary K. Chacon/
Mary K. Chacon

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Ronak Patel et al.

Application No.: 09/988,066

Filed: November 16, 2001

For: BACKPLANE INTERFACE
ADAPTER WITH ERROR CONTROL
AND REDUNDANT FABRIC

Customer No.: 20350

Confirmation No.: 7739

Examiner: Kevin D. Mew

Art Unit: 2416

REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT
DETERMINATION

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 1.705(b), Applicants respectfully request reconsideration of the patent term adjustment determination. This request is accompanied by the fee set forth in §1.18(e) and a statement of facts as required under 37 C.F.R. § 1.705(b)(2).

Statement of Facts

Correct Patent Term Adjustment and Bases Under §§ 1.702, 1.703, and 1.704 for the Adjustment

The correct patent term adjustment is 1768 days, not 831 days as stated on the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) mailed on January 9, 2009.

The period of adjustment under 37 C.F.R. § 1.702(a) is 1120 days ("A delay").

Applicant: Ronak Patel et al.
Application No.: 09/988,066
Client Reference No.: FDRY-0004.1-CIP-US
Request for Reconsideration of Patent Term
Adjustment Determination filed March 3, 2009

PATENT

The period of adjustment under 37 C.F.R. § 1.702(b) is to be determined when the instant application issues. The effective period of adjustment as of the mailing date of the Notice of Allowance under 37 C.F.R. § 1.702(b) is 1329 days (“B delay”).

The period of overlapping days over the period of adjustments under 37 C.F.R. §§ 1.703(a)-(e) is 392 days.

The period adjustment under 37 C.F.R. § 1.704(a) is 289 days (“applicant delay”).

The relevant dates as specified in 37 C.F.R. §§ 1.703(a)-(e) &
the adjustment specified in 37 C.F.R. § 1.703(f)

1. § 1.703(a)

Applicants are in agreement with the USPTO determination of a period of adjustment of 1120 days under 37 C.F.R. § 1.703(a). (*See* Exhibit A, attached hereto).

Applicants respectfully request an additional period of adjustment equal to the number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid, March 9, 2009, and all outstanding requirements were satisfied and ending on the date the patent was issued. *See* 37 C.F.R. § 1.703(a)(6).

2. § 1.703(b)

The period of adjustment under 37 C.F.R. § 1.702(b) begins on the day after the date that is three years from the filing date of the instant application, November 16, 2004, and ends on the day the patent is issued.

The period of adjustment does not include the period beginning on the date on which an RCE was filed, July 7, 2008. *See* 37 C.F.R. § 1.703(b)(1).

Thus, the effective period of adjustment under 37 C.F.R. § 1.702(b) is 1329 days, *i.e.*, from November 16, 2004 to July 7, 2008.

3. § 1.703(c)-(e)

There are no relevant dates as specified under §§ 1.703(c)-(e).

Applicant: Ronak Patel et al.
Application No.: 09/988,066
Client Reference No.: FDRY-0004.1-CIP-US
Request for Reconsideration of Patent Term
Adjustment Determination filed March 3, 2009

PATENT

4. Calculation of Overlapping Days under § 1.703(f)

There are 392 days in the overlapping periods under §§ 1.703(a)-(e). The overlapping period is from November 16, 2004 to December 13, 2005.

Applicants request that overlapping periods be determined in accordance with *Wyeth v. Dudas* (Case No. 07-1492, D.D.C. 2008). The periods of delay under 35 U.S.C. §154(b)(1)(A) and 35 U.S.C. §154(b)(1)(B) overlap only if they occur on the same calendar day or days.

As discussed above, Applicants respectfully request an additional period of adjustment equal to the number of days, if any, under 37 C.F.R. § 1.703(a)(6). Any such period of adjustment under 37 C.F.R. § 1.703(a)(6) begins on April 9, 2009 will not overlap with a period of adjustment under 37 C.F.R. § 1.702(b) which does not include the period beginning on July 7, 2008.

Reduction of period of adjustment of patent term under 37 C.F.R. §1.704

Application are in agreement with the U.S. Patent and Trademark Office determination of an adjustment of 289 days under 37 C.F.R. § 1.704(a).

Patent Term Adjustment Determination

Applicants are entitled to 1768 days of patent term adjustment, *i.e.*,
[(A delay (1120 days) + B delay (1329 days) – overlap (392 days)) minus [289 days (applicant delay)] under 37 C.F.R. § 1.703(f). Applicants are also entitled to any period of adjustment under 37 C.F.R. § 1.703(a)(6).

Terminal disclaimer

No terminal disclaimer has been filed.

Applicant: Ronak Patel et al.
Application No.: 09/988,066
Client Reference No.: FDRY-0004.1-CIP-US
Request for Reconsideration of Patent Term
Adjustment Determination filed March 3, 2009

PATENT

Please charge the fee set forth in 37 C.F.R. §1.18(e) (\$200.00) to Deposit Order Account No. 20-1430. Please charge any necessary additional fees or credit any overpayments to our Deposit Order Account No. 20-1430.

Based on the foregoing, Applicants respectfully request reconsideration of the patent term adjustment determination.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



Jesus Del Castillo
Reg. No. 51,604

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 650-326-2422
AIT:mkc

Attachment: Exhibit A (3 pages)

61823464 v1

Exhibit A

Requestion For Reconsideration For
Patent Term Adjustment for U.S. App. 09/988,066

09/988,066	BACKPLANE INTERFACE ADAPTER WITH ERROR CONTROL AND REDUNDANT FABRIC	02-25-2009::15:55:59
------------	---	----------------------

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 09/988,066

Filing or 371(c) Date:	11-16-2001	USPTO Delay (PTO) Delay (days):	1120
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	289
Post-Issue Petitions (days):	+0	Total PTA (days):	831
USPTO Adjustment(days):	+0	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
01-09-2009	Mail Notice of Allowance		
01-07-2009	Document Verification		
01-07-2009	Notice of Allowance Data Verification Completed		
01-07-2009	Case Docketed to Examiner in GAU		
11-26-2008	Information Disclosure Statement considered		
11-26-2008	Rule 47 / 48 Correction of Inventorship Papers Filed		
11-26-2008	Reference capture on IDS		
11-26-2008	Information Disclosure Statement (IDS) Filed		
12-29-2008	Date Forwarded to Examiner		
11-26-2008	Request for Continued Examination (RCE)		
12-29-2008	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)		
12-16-2008	Case Docketed to Examiner in GAU		
12-01-2008	Mail-Record Petition Decision of Granted to Withdraw from Issue		
12-01-2008	Record Petition Decision of Granted to Withdraw from Issue		
11-26-2008	Petition Entered		
11-26-2008	Information Disclosure Statement (IDS) Filed		
11-26-2008	Workflow - Request for RCE - Begin		
11-25-2008	Application Is Considered Ready for Issue		
11-20-2008	Issue Fee Payment Verified		
11-20-2008	Issue Fee Payment Received		
11-10-2008	Change in Power of Attorney (May Include Associate POA)		
11-10-2008	Correspondence Address Change		
11-06-2008	Receipt into Pubs		
10-30-2008	Mail Notice of Allowance		
10-28-2008	Document Verification		
10-22-2008	Mail-Petition to Revive Application - Granted		
10-22-2008	Petition to Revive Application - Granted		
09-26-2008	Document Verification		
09-27-2008	Notice of Allowance Data Verification Completed		

Exhibit A

Requestion For Reconsideration For
Patent Term Adjustment for U.S. App. 09/988,066

07-31-2008	Date Forwarded to Examiner	
07-31-2008	Date Forwarded to Examiner	
07-07-2008	Request for Continued Examination (RCE)	158
07-31-2008	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)	✦
07-07-2008	Request for Extension of Time - Granted	✦
07-07-2008	Petition Entered	✦
07-07-2008	Workflow - Request for RCE - Begin	✦
05-28-2008	Mail Advisory Action (PTOL - 303)	✦
05-24-2008	Advisory Action (PTOL-303)	✦
05-02-2008	Date Forwarded to Examiner	✦
03-31-2008	Amendment after Final Rejection	✦
03-31-2008	Request for Extension of Time - Granted	✦
10-31-2007	Mail Final Rejection (PTOL - 326)	✦
10-29-2007	Final Rejection	
08-15-2007	Information Disclosure Statement considered	
08-15-2007	Reference capture on IDS	
08-15-2007	Information Disclosure Statement (IDS) Filed	
08-16-2007	Date Forwarded to Examiner	
08-09-2007	Response after Non-Final Action	34
08-09-2007	Request for Extension of Time - Granted	✦
04-06-2007	Mail Non-Final Rejection	✦
04-02-2007	Non-Final Rejection	
01-19-2007	Information Disclosure Statement considered	
07-28-2006	Information Disclosure Statement considered	
01-19-2007	Reference capture on IDS	
01-19-2007	Information Disclosure Statement (IDS) Filed	
01-19-2007	Information Disclosure Statement (IDS) Filed	
01-30-2007	Date Forwarded to Examiner	
01-19-2007	Response after Non-Final Action	97
01-19-2007	Request for Extension of Time - Granted	✦
01-30-2007	Correspondence Address Change	✦
01-30-2007	Change in Power of Attorney (May Include Associate POA)	✦
07-28-2006	Reference capture on IDS	✦
07-28-2006	Information Disclosure Statement (IDS) Filed	✦
07-28-2006	Information Disclosure Statement (IDS) Filed	✦
07-14-2006	Mail Non-Final Rejection	58
07-10-2006	Non-Final Rejection	✦
06-20-2002	Information Disclosure Statement considered	✦
09-23-2002	Information Disclosure Statement considered	✦
06-15-2006	Case Docketed to Examiner in GAU	✦
06-15-2006	Case Docketed to Examiner in GAU	✦

Exhibit A
Requestion For Reconsideration For
Patent Term Adjustment for U.S. App. 09/988,066

Page 3 of 3

06-12-2006	Case Docketed to Examiner in GAU	⌘
03-21-2006	Case Docketed to Examiner in GAU	⌘
01-20-2006	Date Forwarded to Examiner	⌘
01-17-2006	Response to Election / Restriction Filed	⌘
12-13-2005	Mail Restriction Requirement	1062
12-12-2005	Requirement for Restriction / Election	⌘
09-29-2005	Case Docketed to Examiner in GAU	⌘
09-26-2005	Case Docketed to Examiner in GAU	⌘
09-12-2005	Miscellaneous Incoming Letter	⌘
06-27-2005	Case Docketed to Examiner in GAU	⌘
06-27-2005	Case Docketed to Examiner in GAU	⌘
03-09-2005	Correspondence Address Change	⌘
01-26-2005	Case Docketed to Examiner in GAU	⌘
11-30-2004	IFW TSS Processing by Tech Center Complete	⌘
05-18-2004	Miscellaneous Incoming Letter	⌘
04-27-2004	Correspondence Address Change	⌘
04-27-2004	Change in Power of Attorney (May Include Associate POA)	⌘
09-22-2004	Case Docketed to Examiner in GAU	⌘
09-23-2002	Information Disclosure Statement (IDS) Filed	⌘
09-23-2002	Information Disclosure Statement (IDS) Filed	⌘
06-20-2002	Information Disclosure Statement (IDS) Filed	⌘
06-20-2002	Information Disclosure Statement (IDS) Filed	⌘
03-11-2002	Case Docketed to Examiner in GAU	⌘
02-22-2002	Case Docketed to Examiner in GAU	⌘
02-06-2002	Application Dispatched from OIPE	⌘
02-06-2002	Application Is Now Complete	⌘
01-28-2002	Payment of additional filing fee/Preexam	⌘
01-28-2002	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	⌘
11-30-2001	Notice Mailed--Application Incomplete--Filing Date Assigned	⌘
11-30-2001	Correspondence Address Change	⌘
11-19-2001	IFW Scan & PACR Auto Security Review	⌘
11-16-2001	Initial Exam Team nn	⌘

Close Window